REMARKS / ARGUMENTS

Rejection of Claims 1 – 18 under 35 USC 102(b)/103(a)

The Examiner has replaced his earlier rejection. Specifically, the outstanding rejection has been made by the Examiner under 35 USC 102(b), or in the alternative, under 35 USC 103(a) to reject Claims 1-18 as being unpatentable over U.S. Patent No. 5,768,527 to Zhu et al. Moreover, the Examiner contends that:

> "Zhu provides communication protocol ... along with retransmission metrics storing/buffer means ... [and] means to acknowledge need for retransmission ... Zhu et al. does not mention in detail that data communications is via wireless communications, though Zhu et al. does not restrict data communications exclusively to the wired type. Zhu et al. even suggests, in col. 13 line 13 et seq., that plural modifications are envisioned without departing from the scope and spirit of the disclosed specification. Transforming wired data transfer to a wireless type is thus obvious for cost optimization and mobility."

Applicants respectfully disagree, but have nonetheless amended the instant application to clarify the intended scope of Applicants' claims.

Applicants submit that the instant invention is drawn to retransmission of packets within wireless communications, whereas the Zhu et al. reference specifically fails to show or suggest a radio link protocol automatic retransmission request (ARQ) engine that determines 1) retransmission rounds as a function of per packet quality of service and 2) retransmissions as a function of a wireless link quality of service. Clear language to this extent has been added to each of the Independent Claims 1, 9, and 14. Zhu et al. discusses analog telephone lines, T1 lines, PSTN, and ISDN as transport networks for their disclosed invention. Accordingly, it is reasonable to assume that Zhu et al. is restricted to landline applications. Further, the blanket coverage asserted by Zhu et al. (col. 13, line 13 et seq.) suggesting that plural modifications are envisioned without departing from the scope and spirit of the disclosed specification, does not rise to the necessary level of proper motivation to modify or combine Zhu et al. with the wireless realm of transport. This is due to the fact that the ARQ schemes commonly used in wireless transport utilize static retransmission parameters determined on a per connection, or burst basis (see Applicants' Specification at page 1, lines 30-31). Nothing in the cited prior art suggests making a modification to the existing wireless methodology that would result in the present invention as claimed.

Accordingly, as Applicants believe that the Zhu et al. reference does not completely detail the present invention as claimed explicitly in Claims 1, 9, and 14, the rejection under 35 USC 102(b) should be withdrawn. Further, as the standard methodology in the wireless art teaches away from the Zhu et al. methodology and nowhere within the Zhu et al. reference is any modification of that invention into the wireless domain specifically suggested, Applicants also believe that the Zhu et al. reference does not render the instant claimed invention obvious. Claims 10-12 and 15-17 have been cancelled. As Claims 2-8 depend, either directly or indirectly, from Claim 1, it is submitted that they too are not shown or fairly suggested by the cited prior art in any combination. As Claims 13 and 18 depend directly and respectively from Claims 9 and 14, it is submitted that they too are not shown or fairly suggested by the cited prior art in any combination. Withdrawal of the rejection as to Claim 1-9, 13-14, and 18 is therefore respectfully requested.

CONCLUSION

Applicants submit that the application is in condition for allowance, and favorable action to that end is respectfully requested.

Respectfully submitted,

Hang ZHANG, et al

By: _____

Dennis R. Haszko
Reg. No. 39,575
Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9
CANADA
Tel: (613) 237-5160
Fax: (613) 787-3558
E-mail: ipinfo@blgcanada.com

DRH/sum